SENATE JUDICIARY
EXHIBIT NO. 7
DATE 1/31/11
BILL NO. SB 170

The 2011 Legislators' Guide to Medical Cannabis

A Comprehensive Guide to Understanding Medical Cannabis in the State of Montana

Senate Bill 170--AN ACT REVISING THE REQUIREMENTS FOR ISSUING A MEDICAL MARIJUANA REGISTRY IDENTIFICATION CARD FOR A DIAGNOSIS INVOLVING SEVERE AND CHRONIC PAIN; REQUIRING DOCUMENTATION OF THE DIAGNOSIS; REQUIRING A REVIEW PANEL TO EVALUATE AND CONFIRM THE DIAGNOSIS; REVISING DEFINITIONS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 50-46-102, 50-46-103, AND 50-46-210, MCA."

This document is provided to the members of the Senate Judiciary Committee. Excerpts from *The 2011 Legislators' Guide to Medical Cannabis* providing recommendations and rationale pertaining to SB170 are provided herein.

The Montana Medical Growers Association is fundamentally opposed to SB170. In its current form, SB170 stands to put undue financial burdens on disabled individuals, violate the doctor/patient relationship, and infringe on the privacy rights of patients in the State.

From the bill:

Section 1. 50-46-102. Definitions.

(2)"Debilitating medical condition" means:
(ii) severe or and chronic pain that is:
(A) severe, persistent, and intractable;
(B) unrelieved by standard medical treatments or medications that have been attempted over a reasonable amount of time without success; and
(C) documented, reviewed, and confirmed as provided in [section 3];

Issue: The definition of "chronic pain" (*The Guide, page 58-59)*

Chronic pain is a leading cause of recommendations for medical cannabis in the State. An estimated 25% of Montanans suffer from chronic pain, according to the Montana Pain Management Study. Based on DPHHS statistics as of 31. December 2010, **only** 20,000 patients, or two (2) percent,fi are licensed in the State.

Untreated and under-treated pain is a serious public health problem in Montana and the United States, resulting in substantial physical, personal and social costs. Though pain management is fundamental to medical practice, it is complex, depending upon multiple factors, including patient self-report; provider assessment and practice; availability of treatment options and referral networks; and institutional, state, and federal policies. Nationally, 76.5 million people suffer from persistent pain. Medically underserved populations endure an even higher pain burden. Pain is the most common reason Americans access the healthcare system. The annual cost of chronic pain in the United States, including healthcare expenses, lost income, and lost productivity, is estimated to be $100 billion.

Chronic pain has several different meanings in medicine. Traditionally, the distinction between *acute* and *chronic* pain has relied upon an arbitrary interval of time from onset; the two most commonly used markers being 3 months and 6 months since the initiation of pain, though some theorists and researchers have placed the transition from acute to chronic pain at 12 months.

Pain and symptom management are complex, multi-faceted issues. Social, cultural and psychological factors play significant roles in the experience of pain, the willingness or reluctance to report it, and the way it is managed. Disparities in pain treatment and experience exist between men and women, veteran and non-veteran populations, racial and ethnic groups, and elderly populations. Factors such as racial

profiling for diversion, gender-bias in treatment, and higher rates of pain incidence for institutionalized elders all contribute to complexity in pain management. Furthermore, some widely prescribed pain medications have the potential to be abused.

Recommendation:

It is recommended that the defining, diagnosing and treatment of medical conditions best be left to medical professionals. With the availability of continuing education for physicians in the area of medical cannabis as an alternative treatment, doctors and recommending practitioners are better served to make these decisions than is the Legislature.

From the bill:

Section 3. Issuance of registry identification card for severe and chronic pain -- review panel -- physician fee.

(1) The department may not issue a registry identification card to a person whose debilitating medical condition consists of or includes severe and chronic pain unless the application and supporting documentation are evaluated and confirmed by a review panel.
(2) A physician providing a written certification for a person whose diagnosis consists of or includes severe and chronic pain shall submit information as required by the department to document the basis for the diagnosis and for the written certification.
(3) (a) The department shall submit the documentation to a review panel for evaluation and confirmation of the diagnosis and for a recommendation on whether the department should approve or deny the application.
(b) The review panel shall provide a written record of the reasons for its recommendation.
(4) The department may not issue a registry identification card if the review panel recommends denial of the application.
(5) The review panel must be made up of three physicians with experience in pain management or palliative care.
(6) Members of the review panel:
(a) shall conduct their meetings by teleconference or other available electronic means; and
(b) are entitled to a stipend as set by the department in rule.
(7) A physician who provides written certification for a person whose debilitating medical condition consists of or includes severe and chronic pain shall pay a fee established by the department to cover the department's costs of administering this section.

Issue: The necessity for a medical review panel specifically designed to evaluate recommendations for patients suffering from severe and chronic pain.

- No other qualifying condition requires this type of review and certification
- Applying fees to the doctor would raise the cost of service to the patient. These exams are typically not covered by traditional health insurance. The additional fees would be potentially cost prohibitive to deserving patients.

Recommendations:

It is recommended that the need for a medical review panel be withdrawn. This additional step in the process of a patient receiving treatment is cruel and unusual. The opinion of the medical professional who is making the recommendation for the use of medical cannabis must be respected. No other pharmaceutical treatment requires such review. To establish a protocol of this nature would, in turn, set precedence for the Legislature and the Board of Medical Examiners to review every prescription written in the State for any medical condition it chooses. This violates the doctor/patient relationship and infringes on the rights of any patient seeking medical attention.